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AUTHORITY: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

SOURCE: 63 FR 18134, Apr. 14, 1998, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 63 FR 35068, June 26, 1998, unless otherwise noted.

§ 422.1 Basis and scope.

(a) *Basis*. This part is based on the indicated provisions of the following sections of the Act:

- 1851—Eligibility, election, and enrollment.
- 1852—Benefits and beneficiary protections.
- 1853—Payments to Medicare+Choice (M+C) organizations.
- 1854—Premiums.
- 1855—Organization, licensure, and solvency of M+C organizations.
- 1856—Standards.
- 1857—Contract requirements.
- 1859—Definitions; enrollment restriction for certain M+C plans.

(b) *Scope*. This part establishes standards and sets forth the requirements, limitations, and procedures for Medicare services furnished, or paid for, by Medicare+Choice organizations through Medicare+Choice plans.

§ 422.2 Definitions.

As used in this part—

ACR stands for adjusted community rate.

Additional benefits are health care services not covered by Medicare, re-

ductions in premiums or cost-sharing for Medicare covered services, and reductions in the Medicare beneficiary's standard Part B premium, funded from adjusted excess amounts as calculated in the ACR.

Adjusted community rate (ACR) is the equivalent of the maximum amount allowed under § 422.310.

Arrangement means a written agreement between an M+C organization and a provider or provider network, under which—

(1) The provider or provider network agrees to furnish for a specific M+C plan(s) specified services to the organization's M+C enrollees;

(2) The organization retains responsibilities for the services; and

(3) Medicare payment to the organization discharges the enrollee's obligation to pay for the services.

Balance billing generally refers to an amount billed by a provider that represents the difference between the amount the provider charges an individual for a service and the sum of the amount the individual's health insurer (for example, the original Medicare program) will pay for the service plus any cost-sharing by the individual.

Basic benefits means all Medicare-covered benefits (except hospice services) and additional benefits.

Benefits are health care services that are intended to maintain or improve the health status of enrollees, for which the M+C organization incurs a cost or liability under an M+C plan (not solely an administrative processing cost). Benefits are submitted and approved through the ACR process.

Coinurance is a fixed percentage of the total amount paid for a health care service that can be charged to an M+C enrollee on a per-service basis.

Copayment is a fixed amount that can be charged to an M+C plan enrollee on a per-service basis.

Cost-sharing includes deductibles, coinsurance, and copayments.

Licensed by the State as a risk-bearing entity means the entity is licensed or otherwise authorized by the State to assume risk for offering health insurance or health benefits coverage, such that the entity is authorized to accept

prepaid capitation for providing, arranging, or paying for comprehensive health services under an M+C contract.

M+C stands for Medicare+Choice.

M+C eligible individual means an individual who meets the requirements of § 422.50.

M+C organization means a public or private entity organized and licensed by a State as a risk-bearing entity (with the exception of provider-sponsored organizations receiving waivers) that is certified by CMS as meeting the M+C contract requirements.

M+C plan means health benefits coverage offered under a policy or contract by an M+C organization that includes a specific set of health benefits offered at a uniform premium and uniform level of cost-sharing to all Medicare beneficiaries residing in the service area of the M+C plan (or in individual segments of a service area, under § 422.304(b)(2)).

M+C plan enrollee is an M+C eligible individual who has elected an M+C plan offered by an M+C organization.

Mandatory supplemental benefits are health services not covered by Medicare that an M+C enrollee must purchase as part of an M+C plan that are paid for in full, directly by (or on behalf of) Medicare enrollees, in the form of premiums or cost-sharing.

MSA stands for medical savings account.

MSA trustee means a person or business with which an enrollee establishes an M+C MSA. A trustee may be a bank, an insurance company, or any other entity that—

(1) Is approved by the Internal Revenue Service to be a trustee or custodian of an individual retirement account (IRA); and

(2) Meets the requirements of § 422.262(b).

National coverage determination (NCD) means a national policy determination regarding the coverage status of a particular service that CMS makes under section 1862(a)(1) of the Act, and publishes as a FEDERAL REGISTER notice or CMS ruling. (The term does not include coverage changes mandated by statute.)

Optional supplemental benefits are health services not covered by Medicare that are purchased at the option

of the M+C enrollee and paid for in full, directly by (or on behalf of) the Medicare enrollee, in the form of premiums or cost-sharing. These services may be grouped or offered individually.

Original Medicare means health insurance available under Medicare Part A and Part B through the traditional fee-for service payment system.

Point of service (POS) is a benefit option that an M+C coordinated care plan can offer to its Medicare enrollees as an additional, mandatory supplemental, or optional supplemental benefit. Under the POS benefit option, the M+C plan allows members the option of receiving specified services outside of the M+C plan's provider network. In return for this flexibility, members typically have higher cost-sharing requirements for services received and, where offered as a mandatory or optional supplemental benefit, may also be charged a premium for the POS benefit option.

Provider means—

(1) Any individual who is engaged in the delivery of health care services in a State and is licensed or certified by the State to engage in that activity in the State; and

(2) Any entity that is engaged in the delivery of health care services in a State and is licensed or certified to deliver those services if such licensing or certification is required by State law or regulation.

Provider network means the providers with which an M+C organization contracts or makes arrangements to furnish covered health care services to Medicare enrollees under an M+C coordinated care or network MSA plan.

Religious and fraternal benefit (RFB) society means an organization that—

(1) Is described in section 501(c)(8) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Act; and

(2) Is affiliated with, carries out the tenets of, and shares a religious bond with, a church or convention or association of churches or an affiliated group of churches.

RFB plan means an M+C plan that is offered by an RFB society.

Service area means a geographic area approved by CMS within which an M+C-eligible individual may enroll in a particular M+C plan offered by an M+C

organization. Each M+C plan must be available to all M+C-eligible individuals within the plan's service area. In deciding whether to approve an M+C plan's proposed service area, CMS considers the following criteria:

(1) Whether the area meets the "county integrity rule" that a service area generally consists of a full county or counties. However, CMS may approve a service area that includes a portion of a county if it determines that the "partial county" area is necessary, nondiscriminatory, and in the best interests of the beneficiaries.

(2) The extent to which the proposed services area mirrors service areas of existing commercial health care plans or M+C plans offered by the organization.

(3) For M+C coordinated care plans and network M+C MSA plans, whether the contracting provider network meets the access and availability standards set forth in § 422.112. Although not all contracting providers must be located within the plan's service area, CMS must determine that all services covered under the plan are accessible from the service area.

(4) For non-network M+C MSA plans, CMS may approve single county non-network M+C MSA plans even if the M+C organization's commercial plans have multiple county service areas.

[63 FR 35068, June 26, 1998, as amended at 65 FR 40314, June 29, 2000; 68 FR 50855, Aug. 22, 2003]

§ 422.4 Types of M+C plans.

(a) *General rule.* An M+C plan may be a coordinated care plan, a combination of an M+C MSA plan and a contribution into an M+C MSA established in accordance with § 422.262, or an M+C private fee-for-service plan.

(1) *A coordinated care plan.* A coordinated care plan is a plan that includes a network of providers that are under contract or arrangement with the organization to deliver the benefit package approved by CMS.

(i) The network is approved by CMS to ensure that all applicable requirements are met, including access and availability, service area, and quality.

(ii) Coordinated care plans may include mechanisms to control utilization, such as referrals from a gate-

keeper for an enrollee to receive services within the plan, and financial arrangements that offer incentives to providers to furnish high quality and cost-effective care.

(iii) Coordinated care plans include plans offered by health maintenance organizations (HMOs), provider-sponsored organizations (PSOs), preferred provider organizations (PPOs) as specified in paragraph (a)(1)(iv) of this section, RFBs, and other network plans (except network MSA plans).

(iv) A PPO plan is a plan that has a network of providers that have agreed to a contractually specified reimbursement for covered benefits with the organization offering the plan; provides for reimbursement for all covered benefits regardless of whether the benefits are provided within the network of providers; and is offered by an organization that is not licensed or organized under State law as an HMO.

(2) *A combination of an M+C MSA plan and a contribution into the M+C MSA established in accordance with § 422.262.* (i) *M+C MSA plan* means a plan that—

(A) Pays at least for the services described in § 422.101, after the enrollee has incurred countable expenses (as specified in the plan) equal in amount to the annual deductible specified in § 422.103(d); and

(B) Meets all other applicable requirements of this part.

(ii) An M+C MSA plan may be either a network plan or a non-network plan.

(A) *M+C network MSA plan* means an MSA plan under which enrollees must receive services through a defined provider network that is approved by CMS to ensure that all applicable requirements are met, including access and availability, service area, and quality.

(B) *M+C non-network MSA plan* means an MSA plan under which enrollees are not required to receive services through a provider network.

(iii) *M+C MSA* means a trust or custodial account—

(A) That is established in conjunction with an MSA plan for the purpose of paying the qualified expenses of the account holder; and

(B) Into which no deposits are made other than contributions by CMS under the M+C program, or a trustee-to-